



JUDGE ANDREW S. HANEN

United States Courthouse
600 East Harrison, #301
Brownsville, Texas 78520-7114
(956) 548-2591

Irma Soto, Case Manager
United States District Clerk
600 East Harrison, #101
Brownsville, Texas 78520-7114
(956) 548-2629

CRIMINAL PROCEDURES

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Note: This is helpful information. Nothing in this packet supersedes formal rules or common sense.

1. **CONTACT WITH COURT PERSONNEL**

- A. Case-related telephone inquiries are to be made to the Case Manager only. **Inquiries should not be made to the Court's secretary or law clerks.**
- B. Courtesy copies of documents filed less than three (3) days prior to a court setting **must** be delivered to Chambers after originals are filed with the Clerk of the Court. Copies of urgent documents may also be sent to Chambers.

2. **EMERGENCIES**

- A. Counsel shall contact the Case Manager at (956) 548-2629 for matters requiring immediate attention.
- B. Motions for extension of deadlines in the Scheduling and Docket Control Order are not emergencies.
- C. Counsel shall send a courtesy copy of emergency motions directly to Chambers so that they quickly reach the Court's attention.

3. **COURT SETTINGS**

- A. **Docket Call and Trial:**
 - 1) Final Pretrial Conferences will be held on a monthly basis on designated days. Counsel should be prepared to discuss all matters related to the trial, including all matters related to jury selection, 404(b) matters, motions to suppress, and motions in limine.
 - 2) Jury Selection will be held once a month pursuant to a designated schedule. Typically, the Court will pick twelve (12) jurors and two (2) alternates.
- B. **Re-arraignments, Sentencings, and Motion Hearings:**
 - 1) Re-arraignments will be held at the end of the Final Pretrial Conference, unless other arrangements are made with the Case Manager. Once a plea agreement is reached, counsel will notify the Case Manager immediately. The Magistrate Judge may take guilty pleas in felony cases as requested by the Court.
 - 2) Sentencings are routinely scheduled at 8:30 a.m. throughout the month as the Court's schedule permits.

- 3) Motion Hearings are set in the Scheduling Order. Counsel may request a hearing for emergencies and should notify the Case Manager of unusual motions or if an extended time period is anticipated by counsel.

4. **CONTINUANCES**

- A. Joint motions for continuances are not binding, and they will be granted only at the Court's discretion.
- B. Trial will not be continued because a witness, expert, or otherwise, is unavailable. Counsel should anticipate such possibilities and be prepared to present testimony by written deposition, videotaped deposition, or by stipulation.

5. **MOTION PRACTICE**

- A. Motions must contain a certificate of conference, certificates of service, and an appropriate Order.
- B. The Court (or the Magistrate Judge) will consider all pending motions at the motion hearing or as the Court's schedule permits.
- C. If an evidentiary hearing is necessary, counsel should notify the Case Manager in advance. Exhibit and witness lists (4 copies each) will be provided to the Court at the hearing. A copy of all exhibits shall be provided to the Court and to opposing counsel.
- D. Motions to Suppress must be specific and must be in compliance with the local rules. Motions not in conformity therewith will be struck. (*see* the attached Order—Appendix “A”)
- E. All Motions to Dismiss, Motions to Sever, and Motions for Separate Trial must be specific and brought to the Court's attention at least thirty (30) days before jury selection. (*see* the attached Order—Attached as Appendix “B”).
- F. The pages of all pleadings (including plea agreements) are to be numbered so to ease the review of same by the Court and opposing counsel.

6. **REQUIRED PRETRIAL MATERIALS**

- A. Counsel must provide four (4) copies of their exhibit list and four (4) copies of their witness list for ALL trials and hearings (*see* attached forms). The Court and opposing counsel should be provided copies of all exhibits.

B. Jury Trials:

- 1) Counsel must file, IN DUPLICATE, proposed voir dire questions and proposed jury instructions. Each proposed voir dire question must be in question form and should also be submitted in WordPerfect format on a 3.5" computer disc.
- 2) Jury instructions must be short, simple, and concise. Each should be numbered and presented on a separate sheet of paper with the citation of authority upon which counsel rely and should also be submitted in WordPerfect format on a 3.5" computer disc.

7. **EXHIBITS**

- A. The offering party will mark its exhibits with the party's identity, case number, and exhibit number on each exhibit to be offered.
- B. The Court will admit all exhibits that have not been objected to or those whose objections were overruled into evidence as the first order of business. Sensitive exhibits (such as weapons, drugs, and money) will remain in the custody of the government agent throughout the proceedings. Photographs may be introduced in place of the real item when the jury retires for deliberations.
- C. Counsel will not pass exhibits to the jury during trial without obtaining permission in advance from the Court. All admitted exhibits will go to the jury during its deliberations. It is the duty of counsel to make sure all the admitted exhibits and only the admitted exhibits are given to the jury.
- D. Counsel for each party is required to provide the Court with a copy of that party's exhibits in a properly tabbed and indexed notebook.
- E. Disposition of Exhibits Following Trial:
 - 1) Exhibits that are not easily stored in a file folder (like posters, parts, or models) must be withdrawn after the completion of the trial and reduced reproductions or photographs substituted.
 - 2) If there is no appeal, exhibits will be removed by the offering party within thirty (30) days after disposition of the case.
 - 3) When there is an appeal, exhibits returned by the Court of Appeals will be removed by the offering party within ten (10) days after written notice from the

clerk.

- 4) Exhibits not removed will be disposed of by the Clerk, and the expenses incurred will be taxed against the offering party.
- F. All counsel are expected to agree to admissibility when possible, so that the jury is not burdened with witnesses called to prove up mere formalities in situations in which all counsel are aware there is no question concerning authenticity.
- G. Boilerplate, multifarious, and/or non-specific objections will not be considered. Objections should be specific and tailored to the instant case and to the exhibit or matter at issue.

8. **EQUIPMENT**

- A. Counsel are responsible for providing any equipment necessary to facilitate opening/closing arguments and presentation of the case (i.e. Elmo, PowerPoint, etc.). Inform the Case Manager/Court Reporter prior to trial so arrangements can be made to accommodate building security.
- B. Easels with writing pads and drawing boards are available for use in the courtroom. A VCR is available for videotapes.
- C. The visualizer (ELMO) is usually available for projecting letter-sized documents or smaller, including pictures. Any documents for viewing are best viewed when typed in the Arial 12 Point Font from a printer. Counsel should make sure the ELMO is available and working prior to the time counsel anticipates its use.
- D. Real-time reporting is not provided by the Court Reporter. Any requests for a transcripts or portions thereof should be arranged directly with the Court Reporter.
- E. Any special needs for parties or witnesses should also be brought to the Court's attention well in advance of the trial.

9. **COURTROOM PROCEDURES**

- A. Hours: The Court's hours during trial vary depending upon the type of case and the needs of the parties, counsel, witnesses, and the Court. Court will normally convene trial at 9:00 a.m. and adjourn at 5:00 p.m., recessing for lunch between 12:00 noon and 1:30 p.m.
- B. Access at Other Times: Counsel needing access to the courtroom to set up equipment or exhibits before or after normal hours of court must arrange in advance with the Case

Manager to have the courtroom open.

- C. Telephones: Telephone messages for counsel will **not** be taken by the judge's staff, and counsel shall refrain from requesting use of telephones in chambers. Public telephones are available on the first floor.
- D. Filing Documents: Two copies of documents filed immediately prior to and during the trial should be submitted to the Case Manager.
- E. Decorum:
 - 1) Counsel and parties will comply with the rules regarding courtroom behavior described in Appendix "C". These procedures are strictly enforced.
 - 2) Counsel will ensure that all parties and witnesses (and their family and guests) maintain proper decorum and refrain from chewing gum, drinking, eating, smoking, or reading newspapers, books, etc. in the courtroom. No cellular telephones or beepers are allowed in the courtroom.
- F. Witnesses:
 - 1) Counsel are responsible for summoning witnesses into the courtroom and instructing them on courtroom decorum. If "the Rule" has been invoked, counsel are also responsible for instructing their witnesses as to their duties thereunder. Witnesses may be questioned while the attorney is seated at the counsel table or standing at the podium, as instructed by the Court.
 - 2) Counsel must obtain permission from the Court to approach a witness.
 - 3) Counsel shall make every effort to elicit from the witnesses only information relevant to the issues in the case and to avoid cumulative testimony.
 - 4) Counsel should bear in mind the Court's hours and arrange for witnesses accordingly. The Court will not recess to permit counsel to call a missing witness unless he or she has been subpoenaed and has failed to appear.
 - 5) Speaking objections or those with long narratives should be avoided. Side Bar comments are also not to be made.
- G. Seating:

- 1) The table nearest the jury is to be used by the prosecution, and the defense is to use the one sitting farthest from the jury.
 - 2) Once counsel have determined their seating arrangement, the Case Manager will note their position on a chart for the Court and there will be no change once trial has begun, except at the Court's direction.
 - 3) Enter and leave the courtroom only by the front doors; do not use the Court's or jury's entrances.
 - 4) Stand to make objections and remain standing until the judge has ruled.
- H. Deliberations: While the jury is deliberating, unless given permission by Court, counsel are to remain near the courtroom to be available for jury notes or a verdict.
- I. Ex-juror contact: After the jury and counsel are excused, neither counsel, nor the parties, nor their representatives may contact jurors without permission of the Court.

10. **VOIR DIRE**

- A. The Court will conduct the examination of the venire.
- B. Proposed voir dire questions must be filed IN DUPLICATE with the clerk no later than docket call.

UNITED STATES DISTRICT COURT



SOUTHERN DISTRICT OF TEXAS

BROWNSVILLE DIVISION

UNITED STATES OF AMERICA

versus

§
§
§
§
§

CRIMINAL NO. B-_____ - _____

Judge Andrew S. Hanen

Scheduling Order

1. Depositions before U.S. Magistrate
Judge _____ at _____
2. Deadlines Motions: _____
Responses: _____
3. Motion hearing: _____ at _____
4. Proposed voir dire questions and jury
instructions, IN DUPLICATE, due: _____
5. Docket call and pretrial conference: _____ at 1:30 p.m.
6. Jury selection: _____ at 9:00 a.m.
7. Estimated trial time: _____ days (5.5 hours/day)

The defendant and his attorney must appear for the court settings. Failure to appear may result in additional charges being brought against the defendant.

Direct questions about this schedule to Irma Soto, Case Manager, United States District Clerk, 600 E. Harrison, #301, Brownsville, Texas 78520, telephone (956) 548-2629.

United States Magistrate Judge

Attorney for Defendant

Assistant United States Attorney

Defendant

UNITED STATES DISTRICT COURT



SOUTHERN DISTRICT OF TEXAS

BROWNSVILLE DIVISION

UNITED STATES OF AMERICA VS	CRIMINAL NO.
	EXHIBIT LIST
JUDGE ANDREW S. HANEN	CASE MANAGER: IRMA SOTO COURT REPORTER: BARBARA BARNARD
LIST OF	AUSA:

No.	DESCRIPTION	OFR	OBJ	ADM	DATE

UNITED STATES DISTRICT COURT



SOUTHERN DISTRICT OF TEXAS

BROWNSVILLE DIVISION

UNITED STATES OF AMERICA <i>VERSUS</i> - - - - -	CRIMINAL NO.
	WITNESS LIST
JUDGE ANDREW S. HANEN	CASE MANAGER: IRMA SOTO COURT REPORTER: BARBARA BARNARD
LIST OF	PROCEEDING DATE

- 1.
 - 2.
 - 3.
 - 4.
 - 5.
 - 6.
 - 7.
 - 8.
 - 9.
 - 10.
-

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

FOR INFORMATION REGARDING THE FOLLOWING:

THE HONORABLE REYNALDO G. GARZA, 5TH CIRCUIT COURT OF APPEALS.....	548-2592
U.S. DISTRICT CLERK.....	548-2500
CRIMINAL CASES.....	548-2528
CIVIL CASES.....	548-2500
JURY.....	548-2508
ADMISSION OF ATTORNEYS.....	548-2500
APPEALS.....	548-2500
BAIL BONDS, DISBURSEMENT.....	548-2500
BILL OF COSTS, CERTIFICATION OF JUDGMENT, ABSTRACTS.....	548-2500
CASE MANAGERS TO DISTRICT JUDGES	
IRMA SOTO, HONORABLE ANDREW S. HANEN.....	548-2629
STELLA CAVAZOS, HONORABLE HILDA G. TAGLE.....	548-2628
CASE MANAGERS TO UNITED STATES MAGISTRATES	
LINDA GARCIA, HONORABLE JOHN WM. BLACK.....	574-7496
SALLY GARCIA, HONORABLE FELIX RECIO, JR.	548-2548
INTERPRETERS.....	548-2581
LAW LIBRARY.....	548-2509
UNITED STATES ATTORNEY’S OFFICE.....	548-2554
UNITED STATES PROBATION OFFICE.....	548-2522
UNITED STATES PRETRIAL OFFICE.....	548-2667
UNITED STATES PUBLIC DEFENDER’S OFFICE.....	548-2573
UNITED STATES MARSHAL’S OFFICE.....	548-2519

APPENDIX “A”

UNITED STATES DISTRICT COURT



SOUTHERN DISTRICT OF TEXAS

BROWNSVILLE DIVISION

ORDER

In this division, a practice has developed of filing motions to suppress without alleging specific facts that form the basis for the motion. All pretrial motions, including motions to suppress with comply with Local Criminal Rule 12 (Criminal Pretrial Motion Practice). Motions to suppress not complying with Local Rule 12 will be considered waived. The Court will not entertain unsupported pretrial motions.

Local Rule 12.1 instructs counsel to follow Federal Rules of Criminal Procedure Rule 12 “to ensure consistent and efficient practice before this Court. Local Rule 12.2 outlines the form of a pretrial motion. Most importantly, the rule specifies that:

A pretrial motion shall be in writing and state specifically the basis for the motion. The motion shall be supported by a statement of authority....If the motion presents issues of fact, it shall be supported by affidavit or declaration which sets forth with particularity the material facts at issue.

The rule is sufficiently clear and needs no further explanation. All motions to suppress not complying with the requirements of form will be considered waived pursuant to Rule 12.1.

Local Rule 12 is supported by Fifth Circuit precedent. In *United States v. Harrelson*, 705 F.2d. 733, 737 (5th Cir. 1983), the Fifth Circuit addressed this issue and declared that “[e]videntiary hearings are not granted as a matter of course, but are held only when the defendant alleges sufficient facts which, if proven, would justify relief.” (citations omitted). “Factual allegations set forth in the defendant's motion, including any accompanying affidavits, must be sufficiently definite, specific, detailed, and nonconjectural,

to enable the court to conclude that a substantial claim is presented.” *Id.* (quotations omitted). “General or conclusionary assertions, founded upon mere suspicion or conjecture, will not suffice.” *Id.* (citing 3 C. WRIGHT, FEDERAL PRACTICE AND PROCEDURE: CRIMINAL 2D, § 675 (1982)).

Fifth Circuit precedent and the Local Rules establish that motions to suppress must allege specific facts. Cursory motions filed to “test” the constitutionality of statements which may or may not have been made do not allege sufficient facts to warrant an evidentiary hearing. A motion to suppress is not the proper vehicle for determining whether a defendant made statements to law enforcement; what statements may have been made; or the circumstances under which they may have been made. “Hearings on motions to suppress are not discovery proceedings, but are instead designed for the presentation of evidence in support of factual allegations which, if proved, would justify the relief sought.” *Id.* at 738. There are other more efficient methods of obtaining the relevant information for discovery purposes.

The Federal Rules of Criminal Procedure provide methods of obtaining discoverable information. Defense counsel and the United States Attorney's Office alike should follow the letter and the spirit of the Federal Rules of Criminal Procedure, particularly Rules 12 and 16. Should the government fail to meet its obligations under the applicable discovery rules, defendants and defense counsel will address the matter with the Magistrate Judge in the form of a motion to compel discovery.

To recap, the Court will not entertain conjectural or conclusionary motions to suppress. The Court will hold evidentiary hearings on motions to suppress conforming with Local Rule 12 and Fifth Circuit precedent; all other motions will be considered waived, and an evidentiary hearing will not be held. Moreover, the United States Attorney's Office will comply with the Federal Rules of Criminal Procedure, so that defendants will have access to all files containing the statements made by a defendant. Via such

access, defendants will have the ability to articulate a motion to suppress conforming with Fifth Circuit precedent, the Local Rules, and this memorandum. All motions should include certificates of conference, certificates of service, and a proposed order.

Signed this 3rd day of June, 2004.

Andrew S. Hanen
United States District Judge

APPENDIX “B”

UNITED STATES DISTRICT COURT



SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

ORDER

All Motions to Dismiss the Indictment, Motions to Sever or for Separate Trials, and any other motions, regardless of how styled, which seek to question and/or collaterally attack a prior order of deportation [for example, those made pursuant to 8 U.S.C. § 1326(d) shall be filed together with a request for a hearing at least thirty (30) days before jury selection. Each motion shall specifically state the grounds, therefore, and the alleged facts supporting those grounds. Non-specific form motions, multifarious motions or objections, and ambiguous or unsupported challenges shall not be acceptable, and all such motions will be denied. The motion shall be accompanied with a request for a hearing, certificate of conference, certificate of service, and proposed order. Failure to timely file such a motion, to request a hearing, or to comply with the requirement of specific and supported objections shall be considered a waiver of those claims.

Signed this 3rd day of June, 2004.

Andrew S. Hanen
United States District Judge

APPENDIX “C”

Courtroom Etiquette

People who appear in court must observe these and other conventions of courteous, orderly behavior.

- A. Be punctual.
- B. Remain in attendance until excused. All persons sitting before the bar shall remain there during each session and return after recess. Parties and counsel must remain in attendance during jury deliberations; absence waives the right to attend the return of the verdict.
- C. Dress with dignity.
- D. Address others only by their titles and surnames, including lawyers, witnesses, and court personnel.
- E. Unless instructed otherwise, stand when the Court speaks to you; stand when you speak to the Court. Speak only to the Court, except for questioning witnesses and, in opening and closing, addressing the jury.
- F. Avoid approaching the bench. Counsel should anticipate the necessity for rulings and discuss them when the jury is not seated. When a bench conference is unavoidable, get permission first.
- G. Hand to the Case Manager, not the judge or reporter, all things for examination by the judge.
- H. Stand when the judge or jury enters or leaves the courtroom.
- I. Contact with the law clerks is ex parte contact with the Court. Contact must be through the Case Manager.
- J. Assist the summoning of witnesses from outside the courtroom. Furnish the Case Manager and marshal with a list of witnesses showing the order in which they are likely to be called.
- K. Question witnesses while seated at counsel table or standing at the lectern as instructed by the Court. When it is necessary to question a witness about an exhibit, ask permission to approach the witness.
- L. Conduct no experiment or demonstration without permission.

- M. Do not participate in a trial as an attorney if you expect you may be called as a material witness.
- N. Avoid disparaging remarks and acrimony toward counsel and discourage ill will between the litigants. Counsel must abstain from unnecessary references to opposing counsel, especially peculiarities.
- O. Make no side-bar remarks or speaking objections.
- P. Counsel are responsible for advising their clients, witnesses, and associate counsel about proper courtroom behavior.
- Q. Request the use of easels, light boxes, and other equipment well in advance so that they may be set up while the Court is not in session.